

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GORDON LEE BAUM and COUNCIL
OF CONSERVATIVE CITIZENS,

Plaintiffs,

vs.

MAPLEWOOD CITY LIBRARY, *et al.*,

Defendants.

Cause No. 4:06-CV-453 – CDP

APPLICATION TO CLERK FOR ENTRY OF DEFAULT

COME NOW Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens, by and through their attorney, Robert Herman of Schwartz, Herman & Davidson, and pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, hereby makes application to the Clerk for Entry of Default for Plaintiffs and against the Defendant Festus City Library for failure of said Defendant to plead or otherwise answer.

Said failure of Defendant to plead or otherwise answer is set forth in the affidavit immediately following this application.

Respectfully submitted,

SCHWARTZ, HERMAN & DAVIDSON

By: /s/ Robert Herman

Robert Herman, #3382

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*Attorney for Plaintiffs, Gordon Lee Baum and
Council of Conservative Citizens*

AFFIDAVIT OF FAILURE TO PLEAD OR OTHERWISE ANSWER

The undersigned, being duly sworn, upon oath deposes and says:

1. That I am the attorney of record for Plaintiffs in the above-captioned matter and have personal knowledge of the facts set forth in this affidavit;

2. That on March 13, 2006, Plaintiffs, Gordon Lee Baum and Council of Conservative Citizens (hereinafter "Plaintiffs"), filed a Complaint against Festus City Library alleging discrimination and violations against the First and Fourteenth Amendments of the United States Constitution.

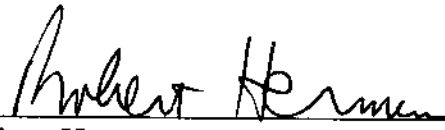
3. That on March 17, 2006, a copy of said Complaint, Notice of Lawsuit and Request for Waiver of Service of Summons were served by Certified U.S. Mail, Return Receipt Requested, upon The Honorable Gene Doyle, City Hall, 711 West Main Street, Festus, Missouri 63028.

4. That on or about March 27, 2006, The Honorable Gene Doyle executed and returned to Plaintiffs Defendant's Acknowledgement of Waiver of Service.

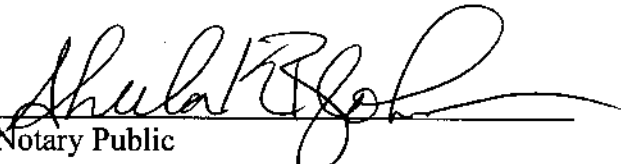
5. That on May 16, 2007, sixty (60) days had elapsed since the Acknowledgement of Waiver of Service had been executed on behalf of Festus City Library, and Defendant has failed to plead or otherwise defend this action, and Plaintiffs are entitled to judgment by default against Defendant Festus City Library.

6. That this affidavit is executed by the affiant herein in accordance with Rule 55(a) of the Federal Rules of Civil Procedure for the purpose of enabling Plaintiffs to obtain an Entry of Default against Defendant Festus City Library for failure to plead or otherwise answer as to the Plaintiffs' Complaint.

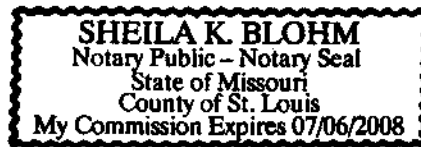
Further than this, affiant sayeth naught.


Robert Herman

Subscribed and Sworn to before me, a Notary Public, this ⁸~~X~~th day of June, 2006.


Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on ⁸~~X~~ June 2006, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

By: /s/ Robert Herman